

MEMORANDUM

July 14, 2010

To: Gary W. Jackson, City Manager
From: Lauren Bradley, Administrative Services Director
Subject: Background information on Legislative Representation

Staff has pulled together background information on Asheville's past arrangements for legislative representation. A high level summary is included below:

Federal Representation

For three years, 2003 to 2005, the city of Asheville contracted with Ball Janik for federal representation. During that time, the city paid Ball Janik a monthly retainer fee of \$5,000, or an annual rate of \$60,000, to provide government relations services. The three-year term ended in February 2005, and it was not renewed.

In early 2006, City Council considered alternatives for extending a contract with Ball Janik. In February 2006, Ball Janik offered two options for continued services: (1) a reduced level of services (i.e., representation on non-appropriation issues only) at a rate of \$2,500 per month, or \$30,000 per year or (2) continued representation on legislative issues and appropriations for \$5,000 per month. City Council considered the proposal at meetings on February 21 and 28, 2006, and ultimately voted against renewing the contract for a reduced level of service on February 28.

According to Council minutes, during the three years that the city contracted with Ball Janik, Asheville obtained approximately \$5 million in appropriations (\$4 million for Pack Square Park, and \$1 million for various initiatives including bus replacement, drug interdiction, pedestrian improvements, etc.)

Since the Ball Janik contract expired, City Council members have continued to work to establish relationships and share information with elected officials at the federal level, and staff has facilitated an annual discussion about appropriations requests, which are submitted directly to legislative offices in Washington, DC.

State Representation

The city of Asheville has not contracted for state representation in previous years. Instead, the City Council's legislative agenda has been managed by the city attorney's office, while City Council members maintain relationships and share information with elected officials.

Please let me know if you need additional information.

Attachments: Staff report – Sept. 20, 2005 (Ball Janik contract renewal)
Staff report – Feb. 21, 2006 (Ball Janik contract renewal)
Ball Janik Proposal – Feb. 24, 2006
City Council minutes – Feb. 28, 2006 (Consideration of Ball Janik contract renewal)

STAFF REPORT

TO: Mayor and City Council **DATE:** Sept. 20, 2005
VIA: Gary Jackson, City Manager
FROM: Sam Powers, Economic Development Director
SUBJECT: **Renewal of Contract for Federal Representation/Ball Janik**

SUMMARY STATEMENT:

Beginning in March 2003, Asheville retained the firm Ball Janik, LLP, to provide advocacy for the City's federal appropriations and legislative agenda. The firm has been retained for two one-year contracts; the third renewal contract is attached to this report and is presented for review with no increase in the fee structure as in 2004. Funding for this contract renewal has been appropriated in the approved 2005-06 Annual Operating Budget.

REVIEW:

In March 2005, Council agreed on federal priorities for FY 2006. These included City Bus Acquisition; Methamphetamine Response, and Water System improvements as Tier 1 priorities. Additionally, a placeholder for Veteran's Memorial, and Thomas Wolfe Cabin Restoration were submitted since Council had not voted on priorities by the March 1st deadline, and advocacy with TEA-21 Reauthorization issues, including Pack Square Pedestrian and Roadway Improvements, and Transit Funding flexibility. Ball Janik staff have recently visited Asheville along with congressional staff members, to review current appropriated projects and begin to develop timelines for submittal of any 2007 city priorities.

RECOMMENDATION:

Staff recommends renewal of the agreement with Ball Janik for the remainder of the FY 05-06 year, with an RFQ process for future contracts when the current agreement expires. Staff also recommends seeking direction from Council to determine any benefits of long-term representation, opposed to one-year contractual agreements for future contracts.

STAFF REPORT

TO: Mayor and City Council **DATE:** February 21, 2006
VIA: Gary Jackson, City Manager
FROM: Sam Powers, Economic Development Director
SUBJECT: Federal Representation Contract with Ball Janik

SUMMARY STATEMENT: This report follows up on City Council Work Session of February 21, 2006. City staff was directed to contact Ball Janik to determine the firm's interest, ability, and fee structure to assist the City in working with the congressional delegation and congressional staff members in revising legislation dealing with federal appropriations to the City's transit system and/or for submitting any potential federal funding requests for FY2007. City Council is requested to provide policy direction to City staff in this matter.

REVIEW: For the past three years the City has utilized a Washington, DC firm, Ball Janik LLP, to assist the City in providing the necessary project information to congressional staffers to include in the various federal appropriations bills. Ball Janik also provided advice and counsel in matters of federal legislation affecting the City. The City did not renew its contract with Ball Janik when it expired in 2005. The City's transit system's service area has been reclassified as an urbanized area of over 200,000 in population due to changes in census boundaries. This reclassification has significant adverse affects on future operations of the system, and the City has considered seeking legislative remedy to the situation. FY2007 appropriations/legislative requests are currently being developed and the City needs to determine if it wishes to utilize Ball Janik to work with the congressional delegation and congressional staff in support of the City's federal legislative agenda.

RECOMMENDATION: Ball Janik has indicated that it can represent the City in pursuing the legislative remedy to the transit system reclassification and/or funding requests and a proposal for services for these elements is to be presented at the February 28th City Council meeting. Staff is seeking policy direction on the matter of retaining Ball Janik.

Attachment: Resolution

RESOLUTION NO. _____

**RESOLUTION AUTHORIZING THE CITY MANAGER TO RETAIN THE SERVICES
OF BALL JANIK**

WHEREAS, the City of Asheville's transit system service area has been reclassified as an urbanized area in excess of 200,000 in population; and

WHEREAS, this change in census data will adversely affect the future operation of the transit system; and

WHEREAS, the City seeks to remedy this situation via federal legislative action; and

WHEREAS, the City has identified projects that are candidates for federal appropriations and desires to submit the projects for consideration in the federal FY2007 budget; and

WHEREAS, the City wishes to work closely with the congressional delegation serving the City to achieve the transit system reclassification legislation; and

WHEREAS, the City wishes to work closely with the congressional delegation to pursue certain appropriations; and

WHEREAS, the City wishes to utilize the services of Ball Janik LLP to provide support and necessary research to assist our legislative delegation in achieving success in these areas.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF ASHEVILLE THAT THEY AUTHORIZE THE CITY MANAGER TO:**

- 1) Retain the services of Ball Janik to assist in the transit legislative remedy; and
- 2) Retain the services of Ball Janik to provide research and assistance to congressional delegation and congressional staff on FY2007 appropriations.

Read, approved and adopted this the ____ day of _____, 2006.

City Clerk

Mayor

Approved as to form:

City Attorney

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HAL HIEMSTRA

GOVERNMENT RELATIONS CONSULTANT

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February 24, 2006

Mr. Gary Jackson
City Manager
City of Asheville
70 Court Plaza
Asheville, NC 28801

Re: Federal Representation for Asheville

Dear Gary:

It is with pleasure that I respond to an inquiry from the City about Ball Janik's availability to once again represent the City of Asheville on federal issues. We are sensitive to concerns that have been raised about the retention of government relations consultants in Washington, D.C. and certainly acknowledge that the issue is not without controversy either locally or nationally. That said, as you know, our firm has a proven track record with Asheville and many other municipal clients, and should the City Councilors decide to retain some level of federal representation, we would be delighted and honored to once again represent the City. We would be prepared to do so either in a limited manner on one or two issues, or in a more comprehensive manner on a wide variety of legislative, regulatory and/or funding issues.

Representing A Limited Federal Agenda on Behalf of Asheville

It is clear to us that the issue of flexibility in spending federal transit dollars remains a top priority for the City. While the SAFETEA-LU "fix" provided some level of relief on the funding flexibility side, unless Asheville-specific legislative language is passed by Congress this year or next (most likely as an appropriations "rider"), by Federal Fiscal Year 2008 the City will lose its ability to use any of its federal bus formula funds for operational expenses. Under the language passed in SAFETEA-LU, the City will retain 50 percent funding flexibility this year (FY06) and will step down to 25 percent funding flexibility next year (FY07). Because the City's transit system does not and is not likely to serve a population base that exceeds 200,000, the above described stair-step approach will not serve the City's interests and Asheville Transit is likely to face significant operational hurdles in the very near future.

Key Congressional staff have recommended that the City continue to pursue a specific long-term legislative fix unique to Asheville. Many of these same staff

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were sympathetic to crafting a specific Asheville fix last year, but felt unable to do so given the broader reauthorization effort underway – an effort that swept Asheville into a broader legislative debate designed to address cities from across the country. Given Asheville's unique geography however, and the Census Bureau's gerrymandering of the Asheville urbanized area to achieve a critical population mass of 200,000, we still believe that a specific legislative fix could be forthcoming if the City continues to work with key members of Congress and committee staff.

Having worked with the City over the past three years, we are also aware of other policy-related issues of interest to the City. For example, Congress is currently engaged in a significant effort to overhaul our nation's telecommunication rules and regulations, and numerous pending legislative proposals could result in significant financial losses to the City. It is likely that this legislative battle will be fought out in the House this year and the Senate next year – though the Senate is also currently considering legislative options as well. On behalf of a number of municipal clients, our firm is following and participating in this debate in an active manner. Upon the direction of the Council, we could do so on behalf of Asheville as well.

Any type of limited contractual engagement between the City and Ball Janik could be fashioned to include one or both of the above issues, or other non-appropriation issues of interest to the Council. (While technically, we would recommend targeting the FY07 Transportation Appropriations bill as the legislative vehicle for the transit fix, we would not be pursuing earmarked funds so we would consider this to be a policy effort not appropriations work – even though it would have significant long-term financial implications for the City and Asheville Transit). By limiting our representation of the City to non-appropriation matters, we would be able to represent the City well without spending the level of time necessary to advance an annual federal appropriations agenda. As such, we propose that a monthly retainer of \$2,500 per month (compared to the previous retainer of \$5,000 per month) would enable our firm to aggressively pursue an Asheville-specific legislative fix on the transit flexibility issue, and also enable us to monitor, on an ongoing basis, legislative issues of interest to the City. Within this retainer level, in instances of significant Council interest, we could also actively represent the City's perspective and interests with the North Carolina delegation and other key members of Congress.

In addition, within the above retainer amount, we could continue to advise the City on the dispersal of previously secured federal funds and, if desired, serve as the City's liaison to the federal agencies responsible for moving earmarked federal funds from Washington to Asheville.

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Representing A Broader Federal Agenda on Behalf of Asheville

We have reviewed the seven appropriation requests prepared by the City staff. Some are familiar to us, while others appear to be new funding requests. Whether these or other federal appropriations requests of particular interest to the Council should be advanced by the City to Congress for the FY07 funding cycle is not a decision that we can make. Regardless of the City's decision, we want to point out that Congressional deadlines are fast approaching. In fact, most Congressional offices have requested that any FY07 appropriations requests be submitted by either March 1 or in some cases, March 3. In the case of Congressman Taylor, we understand that his internal office deadline is March 6. We would not recommend missing those deadlines.

Should the Council decide to pursue a federal appropriations agenda this year, we would strongly recommend that no more than 3 priorities be advanced. The City has achieved considerable success over the past several years in the federal appropriations process and one of the reasons has been that a limited number of requests were put forward; and those that were made, were tailored to those federal programs where federal funding was available. We recognize that those federal programs do not always coincide perfectly with the top priorities of the City Council. When that happens, pursuing the Council's highest priorities – even though they might not receive funding – as opposed to lower priorities that have a stronger chance of federal funding, is a trade-off only the Council can make.

In all honesty, I must advise that if the Council wants to pursue a federal FY07 appropriations agenda, the City is coming to the party very late. While not impossible (we can point to a similar late start three years ago that actually turned out pretty well), the federal appropriations process is under intense review and scrutiny this year. Members of Congress and their staffs will not be shy about rejecting proposals that they are unfamiliar with or that were submitted late. Coupled with the controversies surrounding the federal earmarking process is the fact that federal spending will be tighter this year than ever before. That suggests to us, that those project proposals that enjoy wide public support, can demonstrate or serve some type of national interest, and/or can help to achieve a national goal established by Congress, are the projects most likely to receive federal funding this year.

One final thought on this year's appropriations process. Should the City decide to pursue the transit fix this year, the most obvious legislative vehicle for doing so is the annual Transportation/HUD Appropriations bill. As such, we would not recommend that the City pursue any other funding request on that bill (either highway, bus or rail projects on the transportation side or Economic Development Initiatives (EDI) on the Housing and Urban Development side). Fixing the transit formula issue will require some heavy lifting on the part of the Congressional delegation and while it will not require them to "spend" any of the funds that they might otherwise be able to

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allocate to a particular project, they will need to spend political capital to advance the Section 5307 fix. As such, we would recommend that within the Transportation/HUD Appropriations bill, the focus remain exclusively on the transit fix should the City decide to pursue the issue.

If the City decides to pursue a federal FY07 appropriations agenda and wants to retain the services of Ball Janik to represent that agenda, we propose that a monthly retainer of \$5,000 be reinstated, or alternatively, that a \$2,500 retainer be developed for the more limited scope of representation and that we pursue the City's federal appropriation agenda on an hourly basis. If the City chooses to pursue an appropriations agenda on an hourly basis, we recommend that a cap or ceiling be established for those fees and that we limit the number of appropriations projects to one or two, since we would be more limited in the amount of time we could dedicate to the City's appropriations agenda.

In conclusion, let me again say how pleased and honored we would be to once again represent the City's interests here in Washington. My colleagues Vicki Cram, Irene Ringwood and I are prepared to represent as much or as little of your federal interests as the Council believes it wants to pursue. I have tried to suggest several different types of cost structures which would enable us to represent the City's interest well and still be fair to us, but if you have another proposal you would like us to consider, we would certainly do so. Asheville is wonderful City and we have enjoyed working with you, the Council, your City employees and the citizens of your fine community.

Sincerely,

Hal Hiemstra
Government Relations Consultant

Tuesday – February 28, 2006 - 5:00 p.m.

Regular Meeting

Present: Mayor Terry M. Bellamy, Presiding; Vice-Mayor Diana Hollis Jones; Councilwoman Robin L. Cape; Councilman Jan B. Davis; Councilman Bryan E. Freeborn; Councilman R. Carl Mumpower; Councilman Brownie W. Newman; City Manager Gary W. Jackson; City Attorney Robert W. Oast Jr.; and City Clerk Magdalen Burleson

Absent: None

F.

RESOLUTION AUTHORIZING THE CITY MANAGER TO RETAIN THE SERVICES OF BALL JANIK

Economic Development Director Sam Powers said that this report follows up on City Council worksession of February 21, 2006. City staff was directed to contact Ball Janik to determine the firm's interest, ability, and fee structure to assist the City in working with the congressional delegation and congressional staff members in revising legislation dealing with federal appropriations to the City's transit system and/or for submitting any potential federal funding requests for Fiscal Year 2007. City Council is requested to provide policy direction to City staff in this matter.

For the past three years the City has utilized a Washington, DC firm, Ball Janik LLP, to assist the City in providing the necessary project information to congressional staffers to include in the various federal appropriations bills. Ball Janik also provided advice and counsel in matters of federal legislation affecting the City. The City did not renew its contract with Ball Janik when it expired in 2005. The City's transit system's service area has been reclassified as an urbanized area of over 200,000 in population due to changes in census boundaries. This reclassification has significant adverse affects on future operations of the system, and the City has considered seeking legislative remedy to the situation. Fiscal Year 2007 appropriations/legislative requests are currently being developed and the City needs to determine if it wishes to utilize Ball Janik to work with the congressional delegation and congressional staff in support of the City's federal legislative agenda.

Ball Janik has indicated that it can represent the City in pursuing the legislative remedy to the transit system reclassification and/or funding requests and a proposal for services for these elements. Ball Janik proposes a monthly retainer of \$2,500 (compared to the previous retainer of \$5,000 per month) which will enable them to aggressively pursue an Asheville-specific legislation fix on the transit flexibility issue, and will also them to monitor, on an ongoing basis, legislative issues of interest to the City.

Councilman Newman moved contract with Ball Janik on a monthly retainer of \$2,500 to focus on the highly technical issue regarding transit. This motion was seconded by Councilwoman Cape.

Councilman Mumpower felt Asheville has a committee structure that can potentially address this and make the kind of things happen that we want to without the cushion between Council and our representatives. He committed working with Councilman Newman to meet with Congressman Taylor and his staff to passionately pursue the transportation issue.

Upon inquiry of Councilwoman Cape, Transit Services Director Bruce Black explained the decrease of funding each year regarding the transit system.

Councilman Newman explained the highly technical aspect of the transit system.

Mr. Powers responded to various questions from Council regarding Ball Janik and the timeframe for action.

Mayor Bellamy said that a meeting is being set up with Congressman Taylor, Senator Burr and Senator Dole in order to build a personal relationship.

The motion made by Councilman Newman and seconded by Councilwoman Cape failed on a 3-4 vote, with Vice-Mayor Jones, Councilwoman Cape and Councilman Newman voting "yes" and Mayor Bellamy, Councilman Davis, Councilman Freeborn and Councilman Mumpower voting "no."